

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3765 of 2003

Between:

Sri A.Ranganna S/o Narasimhaiah Setty

Aged about 55 years, Ex-Sarpanch

Resident of Mantralayam

Kurnool District.

..... PETITIONER

AND

1. The Government of Andhra Pradesh, rep. by
its Secretary, Panchayat Raj and Rural Development
Department, Hyderabad.

2. The District Collector (P.W.), Kurnool District.

3. The District Panchayat Officer, Kurnool.

4. The Mantralayam Gram Panchayat

Mantralayam, Kurnool District, rep. by its Sarpanch.

5. Smt.G.Rajeswari, W/o G.Chenchaiah

Hindu, aged about 45 years, R/o Mantralayam

Kurnool District.

6. Smt.G.Anjamma W/o Chinna Chenchaiah

Hindu, aged about 39 years, R/o Mantralayam

Kurnool District.

7. Smt. G.Venkatamma W/o Subbarayudu

Hindu, aged about 37 years, R/o Mantralayam

Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Mandamus declaring the action of the 4th respondent in not taking steps to remove encroachment made by the respondents 5 to 7 and in preventing unauthorized construction of the 2nd floor of restaurant sought to be made by them without any permission from the 4th respondent as illegal, arbitrary and violative of Article 14 of the Constitution of India and pass such other order or orders.

Counsel for the Petitioner: MR.B.VIJAYA BHASKER

Counsel for the Respondents: GP for Panchayat Raj

for Respondents 1 to 3

Mr. K.Sitaram for R-4

Mr.S.Satyam Reddy for

Respondents 5 to 7.

The Court made the following :

ORAL ORDER:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

This Petition has been filed as Public Interest Litigation by A.Ranganna, who was Sarpanch of Mantralayam Gram Panchayat. Petitioner alleged that during his tenure, respondents 5 to 7 made an application on 18.8.2000 for construction of hotel in Survey No. 53/2 situated at Mantralayam. The Gram Panchayat by its resolution No. 89/2 accorded permission for carrying out construction only up to first floor. The petitioner further alleged that in deviation of the sanctioned plan, respondents 5 to 7 constructed the restaurant by encroaching upon the public road. Petitioner thereafter made reference to various proceedings from time to time and now states that no action is being taken by the Gram Panchayat against respondents who have violated the sanctioned plan and raised construction by encroaching on the public road and seeks direction against the Gram Panchayat to take up appropriate steps to prevent unauthorized construction of the second floor and remove the encroachment.

From the averments made in the Writ Petition, we find that there had been number of litigations in this regard. Writ Petition No. 673 of 2001 was filed by respondents 5 to 7 questioning the action of the Gram Panchayat, Manthralayam in proceedings dated: 13.9.2000. Another Writ Petition being W.P.No. 625 of 2001, was filed by one G.Veera Reddy seeking direction against the Gram Panchayat in not taking action against respondents 5 to 7 who deviated from the sanctioned plan. On 23.1.2001, Writ Petition No. 673 of 2001 filed by respondents 5 to 7 was dismissed and on 24.1.2001, W.P.No. 625 of 2001 was also disposed of observing that Gram Panchayat had already cancelled the plan sanctioned in favour of the respondents and the Writ Petition filed by Respondents 5 to 7 having been dismissed, it is not necessary to pass any orders in that writ petition, inasmuch as there was no doubt that the Gram Panchayat would take action in accordance with law. Respondents 5 to 7 approached the State Government against the action of the Gram Panchayat,

and, the State Government, in exercise of its revisional jurisdiction granted stay until further orders. Writ Petition No. 7815 of 2001 was filed in this Court by the Gram Panchayat questioning the said action of the State Government. The said Writ Petition was disposed of on 23.4.2001 directing the respondents 5 to 7 not to make any construction so as to avoid unnecessary further complications during the pendency of the revision before the State Government. Subsequent to the disposal of the said writ petition, on 15.6.2001, the State Government, in exercise of its powers, allowed the revision petition of respondents 5 to 7 directing that construction work of the buildings shall go on without any obstruction, construction shall be carried out strictly in accordance with the sanctioned plan, and, the damages caused to the road and the pipeline, if any, should be got rectified without causing any inconvenience to the general public and the pilgrims visiting the holy shrine. Memo to this effect was issued on 10.7.2001 by the District Panchayat Officer, Kurnool. Writ Petition No. 14529 of 2001 was filed by the Gram Panchayat questioning the legality and validity of the order of the State Government. While the said Writ Petition was pending, interim order was passed on 18.7.2001 directing respondents 5 to 7 not to make any further construction and directed status quo to be maintained. During the pendency of the said writ petition, Contempt Case No. 1358 of 2001 was filed alleging violation of the order dated: 18.7.2001. The said Contempt Case was also decided on 15.2.2002 holding that respondents 5 to 7 have violated the orders passed on 18.7.2001. Fine was imposed on them. Ultimately, the Writ Petition filed by the Gram Panchayat, namely, W.P. No. 14529 of 2001, itself was dismissed as withdrawn on 16.4.2002. Once the said Writ Petition was dismissed as withdrawn, the order of State Government became operative, by which, the revision of respondents 5 to 7 was allowed, and, subsequent thereto, respondents 5 to 7 have completed their construction and approached the Gram Panchayat for regularization of the entire construction, which has been raised i.e. Cellar as well as on the first floor. On 21.10.2003, the matter came up before the Gram Panchayat. Respondents 5 to 7 pointed out in their request for regularization that they had already paid fine of Rs.500/- and were prepared to pay whatever penalty/fees is required to be paid, and, prayed that their construction as raised be regularized. This request of Respondents 5 to 7 was duly considered and on 21.10.2003, the Gram Panchayat approved the action of respondents 5 to 7 by regularizing the construction. Record containing the resolution has been produced by the Gram Panchayat for our perusal and we have perused the same and returned it.

On the analysis of the case as above, it would leave no doubt that the writ petition brought before the Court as Public Interest Litigation is nothing, but, a motivated one by the person who held the post of Sarpanch. Gram Panchat, of which the petitioner was Sarpanch, had filed cases, and, ultimately, Gram Panchayat passed a resolution accepting the respondents' request for regularization. Therefore, the Writ Petition was filed by the petitioner, who was Sarpanch of the Gram Panchayat, only to satisfy his ego. Gram Panchayat having accepted, by its resolution, the request of respondents 5 to 7 for regularization of the constructions made by them, and, the State Government having allowed the Revision of Respondents 5 to 7, no directions deserve to be issued in this Writ Petition, and the Writ Petition itself is dismissed as motivated. No costs.

DEVINDER GUPTA, C.J.

12.7.2004.

G.ROHINI, J.

VR.

To

1. The Secretary to Government of Andhra Pradesh, Panchayat Raj and Rural Development Department, Hyderabad.

2. The District Collector (P.W.), Kurnool District.

3. The District Panchayat Officer, Kurnool.

4. The Mantralayam Gram Panchayat

Mantralayam, Kurnool District, rep. by its Sarpanch.

5. Two CCs to Govt. Pleader for Panchayat Raj, High Court Bldgs, Hyd.(OUT).

6. Two CD copies.